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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,781	08/28/2000	Mika Rinne	944-003.011	7731
4955	7590	06/16/2004	EXAMINER	
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			MAIS, MARK A	
		ART UNIT		PAPER NUMBER
		2664		10

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/648,781	RINNE, MIKA
<b>Examiner</b>	<b>Art Unit</b>	
Mark A Mais	2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on March 15, 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1-16 is/are allowed.

6)  Claim(s) 17-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statements (IDS) submitted on October 14, 2003 was filed after the mailing date of the Application on August 28, 2000. The submissions are in compliance with the provisions of 37 CFR 1.56 and 1.97. Accordingly, the examiner considered the information disclosure statement.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Golden et al. (USP 6,563,793).

4. With regard to claims 17-20, Golden et al. discloses a method and apparatus that receives a packet (ATM, col. 7, line 30) in a first network (Fig. 3, LAN A) from a second network (Fig. 3, LAN B), said packet having information relating to a quality-of-service requested for said packet (Fig. 4, host desires connection requests reserved connection with host 52, a path message is routed to router 54 via internet 24, private network 26 to include path and resv messages between host 54 and router 52; *see also* col. 9, lines 30-46), determines if the packet requires the requested quality-of-service, classifies the packet according to the requested quality-of-service (Fig. 4, controller function 64 determines if it can fulfill the packet's requested bandwidth/quality of service, *see also* col. 9, lines 57-66) and provides the packet with the requested quality-of-service over the first network (col. 10, lines 27-30), otherwise classifies the packet according to a quality-of-service actually experienced by said packet over said second network, provides the packet with a quality-of-service corresponding to the quality-of-service experienced by the packet over the second network (Fig. 4, connection controller 64 provides best effort/next-highest-capacity when no path exists for the requested QoS; *see also* col. 10, lines 47-57). Moreover, Golden et al. further discloses that if the requested QoS cannot be achieved because there are not enough resources, an error message is generated and sent out (Fig. Fig. 4, LAN A is displayed wherein router 54 received the request, from an outside host, for a connection to host 52. If the requested QoS cannot be filed, the switch 56 (downstream) sends a PathErr message upstream, *see* col. 10, lines 55-57; *see also* Figs. 9 and 10, wherein host 102 requests a reserved connection, ECP 50 determines if the bandwidth is available, and, if not, informs host 102, and either (a) states that the

**connection was refused, or (b) advises the host of the next highest available service, col. 14, lines 17-67).**

***Response to Arguments***

5. Applicant's arguments filed March 15, 2004, have been fully considered but they are not persuasive. Applicants argue that the new limitations presented in amended claims 17-20 overcome the rejections delineated in the Office Action dated December 18, 2003. However, the arguments are not persuasive because the claims incorporate the use of the limitation 'experienced' QOS versus 'required' QOS. However, this is, in fact, the reason for having and adjusting for a different QOS (experienced and/or required) between sender and receiver. A sender in wireless sending network can pass along a group of packets' requested QOS to intermediate networks and/or the destination network. The intermediate networks, and the destination network, in turn, can then pass along or receive the requested QOS or step-down the QOS based on what is actually available and/or experienced (i.e., they step-down to what is already experienced and/or available—they do not step-up to a QOS that is not supported by any of the other networks (e.g., the sending network, intermediate network, and destination network will 'normalize' to the lowest common denominator QOS)).

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A Mais whose telephone number is (703) 305-6959. The examiner can normally be reached on 8:00-4:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (703) 305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2664

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 1, 2004



WELLINGTON CHIN  
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